

NIRO, HALLER & NIRO

DEAN D. NIRO (Admitted *pro hac vice*)

dniro@nshn.com

DAVID J. MAHALEK (Admitted *pro hac vice*)

mahalek@nshn.com

ROBERT A. CONLEY (Admitted *pro hac vice*)

rconley@nshn.com

181 West Madison, Suite 4600

Chicago, IL 60602-4515

Telephone: 312-236-0733

Facsimile: 312-236-3137

Attorneys for Plaintiff

BLUESTONE INNOVATIONS LLC

DURIE TANGRI LLP

DARALYN J. DURIE (SBN 169825)

ddurie@durietangri.com

SONALI D. MAITRA (SBN 254896)

smaitra@durietangri.com

217 Leidesdorff Street

San Francisco, CA 94111

Telephone: 415-362-6666

Facsimile: 415-236-6300

Attorneys for Defendants and Counter-Plaintiffs

NICHIA CORP. and NICHIA AMERICA CORP.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

BLUESTONE INNOVATIONS LLC,

Plaintiff,

v.

NICHIA CORPORATION and
NICHIA AMERICA CORPORATION,

Defendants.

Case No. 3: 12-cv-00059-SI

**STIPULATION AND ~~PROPOSED~~ ORDER
UNDER LOCAL RULE 7-12 TO SERVE
AMENDED PATENT L.R. 3-1
INFRINGEMENT CONTENTIONS**

Judge: Honorable Susan Illston
Courtroom: 10, 19th Floor

1 IT IS HEREBY STIPULATED BY THE PARTIES, THROUGH THEIR
2 UNDERSIGNED COUNSEL:

3 Pursuant to Civil L.R. 7-12 and Patent L.R. 3-6, Plaintiff Bluestone Innovations, LLC
4 (“Bluestone”) and Defendants Nichia Corporation and Nichia America Corporation (“Nichia”), by and
5 through their undersigned counsel, hereby consent and stipulate that, with leave of Court, Bluestone may
6 serve amended Patent L.R. 3-1 infringement contentions upon Nichia. In support of this stipulation, the
7 parties state as follows:

8 On July 26, 2013, Bluestone served its Patent L.R. 3-1 Disclosure of Asserted Claims and
9 Infringement Contentions and its Patent L.R. 3-2 Document Production Accompanying Disclosure as
10 required by the Court’s Scheduling Order. (Dkt. No. 331). Nichia informed Bluestone on August 6,
11 2013 that it believed Bluestone’s infringement contentions were deficient. The parties held a telephonic
12 meet and confer on August 7, 2013. The parties discussed two issues during the telephonic meet and
13 confer. The first issue was whether Bluestone could properly rely upon 7 representative claim charts for
14 the 101 Nichia products accused of infringement in Bluestone’s Patent L.R. 3-1 infringement
15 contentions. The parties were unable to resolve their dispute on this issue and Nichia filed a discovery
16 dispute letter pursuant to the Court’s procedures. (Dkt. No. 334).

17 The second issue discussed during the August 7, 2013 telephonic meet and confer was the
18 sufficiency of Bluestone’s infringement claim charts with regards to the last element of claims 1 and 23.
19 Nichia contended that Bluestone’s infringement contentions failed to identify with specificity the “crack
20 planes of the epitaxial film” and the “mesas . . . surfaces oriented along” those crack planes as required
21 by the asserted claims. Bluestone contended that its Patent L.R. 3-1 infringement contentions provided
22 sufficient detail by which one of ordinary skill in the art would be able to ascertain the manner in which
23 the “crack planes of the epitaxial film” and the “mesa . . . surfaces oriented along those crack planes” are
24 present in the accused Nichia products.

25 In an effort to avoid burdening the Court with a discovery dispute on this issue, the parties agreed
26 to work together to resolve this matter. Bluestone provided Nichia with an exemplary claim chart that
27 provided a further explanation (both graphically and in writing) of Bluestone’s contention regarding the
28

1 presence of this last claim element in one of Nichia's accused products, Nichia's NVSL219AT LED.
2 Nichia reviewed the proposed amendment to the claim chart for the NVSL219AT LED and informed
3 Bluestone that, based on Bluestone's representation that it will supplement each of its claim charts in the
4 same manner, Nichia no longer intended to move on this discovery dispute. The only issue that remains
5 on this front is the due date of Nichia's invalidity contentions in light of Bluestone's supplementation of
6 its infringement contentions. This issue is raised in the parties' discovery dispute letter. (*See* Dkt. No.
7 334).

8 Accordingly, the parties stipulate that Bluestone may amend its Patent L.R. 3-1 infringement
9 contentions within three days of this Stipulation and Proposed Order to provide a further graphical and
10 textual explanation regarding the manner in which the "crack planes of the epitaxial film" and the "mesa
11 . . . surfaces oriented along those crack planes" are present in the accused Nichia products.

1 Dated: August 26, 2013

NIRO, HALLER, & NIRO

2
3 By: /s/ David J. Mahalek

DAVID J. MAHALEK

4 **DAVIS WRIGHT TREMAINE LLP**

MARTIN L. FINEMAN (SBN 104413)

martinfineman@dwt.com

505 Montgomery Street

Suite 800

San Francisco, CA 94111

Telephone: 415-276-6575

Facsimile: 415-276-6599

9 **NIRO, HALLER & NIRO**

DEAN D. NIRO (Admitted *pro hac vice*)

dniro@nshn.com

10 DAVID J. MAHALEK (Admitted *pro hac vice*)

mahalek@nshn.com

11 ROBERT A. CONLEY (Admitted *pro hac vice*)

rconley@nshn.com

12 OLIVER D. YANG (Admitted *pro hac vice*)

oyang@nshn.com

13 181 West Madison, Suite 4600

Chicago, IL 60602-4515

Telephone: 312-236-0733

Facsimile: 312-236-3137

16 Attorneys for Plaintiff

BLUESTONE INNOVATIONS LLC

1 Dated: August 26, 2013

DURIE TANGRI LLP

2
3 By: /s/ Catherine Nyarady
CATHERINE NYARADY

4
5 **PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP**

6 KENNETH A. GALLO (Admitted *pro hac vice*)
kgallo@paulweiss.com

7 DIANE C. GAYLOR (Admitted *pro hac vice*)
dgaylor@paulweiss.com

8 J. BRIAN HART, JR. (Admitted *pro hac vice*)
bhart@paulweiss.com

9 2001 K Street, NW
Washington, DC 20006-1047

10 Telephone: 202-223-7339

11 Facsimile: 202-204-7350

12 **PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP**

13 CATHERINE NYARADY (Admitted *pro hac vice*)
cnyarady@paulweiss.com

14 BRIAN P. EGAN (Admitted *pro hac vice*)
began@paulweiss.com

15 1285 Avenue of the Americas
New York, NY 10019-6064

16 Telephone: 212-373-3000

17 Facsimile: 212-757-3990

18 Attorneys for Defendants and Counter-Claimants
NICHIA CORP. and NICHIA AMERICA CORP.

19
20
21
22 I, David J. Mahalek, am the ECF User whose identification and password are being used to file this
23 Stipulation Under Local Rule 7-12. Pursuant to Civil L.R. 5-1(i)(3), I hereby attest that counsel for the
24 foregoing parties have concurred in this filing.

25 /s/ David J. Mahalek
26 DAVID J. MAHALEK

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 8/27/13



HONORABLE SUSAN ILLSTON
UNITED STATES DISTRICT JUDGE